

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

JONATHON A. MOSELEY

Plaintiff,

v.

JUDGE RICHARD E. GARDINER

and

ROBERT VAUGHN,

and

SOLUTION PAINTING INC.

Defendants.

Civil Action No. 1:20-cv-01248

**NOTICE OF
APPEAL**

PLAINTIFF'S NOTICE OF INTERLOCUTORY APPEAL

Notice is hereby given that Jonathon A. Moseley, Plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Fourth Circuit from the Order to Show Cause entered in this action on this 3rd day of November, 2021, requiring a hearing on November 5, 2021.

The District Court clearly lacks authority to collect a money judgment, even including one arising from a specious and improper award of attorneys' fees, by way of contempt.

As Moseley explained when asked about the imposition of a date with regard to the improper award of attorneys fees, Moseley conceded that a debt which has no due date would never become due and payable as taught by simple contract law.

However, the establishment of a due date does not transform an ordinary civil debt

into an order that the Court may collect by contempt.

But even more disturbing, the specious award of attorneys' fees arises from Mosely seeking to test this very point in his original lawsuit, that an award of attorneys' fees becomes an ordinary civil debt or money judgment that may not be collected through contempt.

In response, the District Court dismissed that lawsuit and imposed the instant attorneys fees award.

Now, exposing the hypocrisy and irrationality of that decision, the District Court falls into a trap of its own making and seeks to do exactly what Moseley challenged in the original lawsuit and the District Court found the lawsuit to be unfounded.

The District Court has just proven that the original lawsuit was meritorious and that the attorneys' fees should never have been awarded in the first place, by engaging in the very conduct that Moseley's lawsuit was challenging.

WHEREFORE, Plaintiff Moseley requests this interlocutory appeal, and will shortly file a motion for prohibition against the District Court's abuse of the contempt power as a collection agency for an ordinary debt.

It should be noted that it would be reprehensible to confuse the existence of the contempt power with its abuse. The issue is abuse, not existence.

November 3, 2021

RESPECTFULLY SUBMITTED,

Plaintiff, *Pro Se*

Jonathon Alden Moseley, Esq.

Virginia State Bar No. 41058
5765-F Burke Centre Parkway, PMB #337
Burke, Virginia 22015
Telephone: (703) 656-1230
Contact@JonMoseley.com
Moseley391@gmail.com

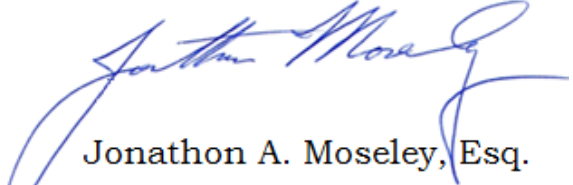
CERTIFICATE OF SERVICE BY MAILING

I hereby certify that on this November 3, 2021, a copy of the foregoing pleading has been distributed by the ECF filing system and by facsimile transmission to:

Mr. Mark R. Herring, Esq.
Attorney General of Virginia
Mr. Samuel T. Towell, Esq.
Deputy Attorney General
Mr. Marshall H. Ross, Esq.
Senior Assistant Attorney General/Trial Section Chief
Mr. Calvin C. Brown, Esq.
Assistant Attorney General
Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219
Telephone: 804-786-4933
Facsimile: 804-371-2087
cbrown@oag.state.va.us

Ms. Sheri H. Kelly, Esq.
Assistant Attorney General
Office of the Attorney General
204 Abingdon Place
Abingdon, Virginia 24211
Office: (276) 628-2964
Facsimile: (276) 628-4375
SKelly@oag.state.va.us
Richmond, Virginia 23219
Counsel for Judge Richard Gardiner

Mr. Robert Vaughn, Esq.
O'Connor and Vaughn
11490 Commerce Park Drive, Suite 510
Reston, Virginia 20191
Facsimile: (703) 471-6496
E-mail: RVaughn@Oconnorandvaughn.com
Counsel for Solutions Painting and for Himself



Jonathon A. Moseley, Esq.